

Nov 12, 2019

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MARTIN VILLANUEVA; JOHN
DOE, Trustee; and GABELO
TLATELPA,

Plaintiffs,

v.

WAL-MART INC., a foreign profit
corporation; JAKE CARLSTROM; and
AARON RODRIGUEZ,

Defendants.

No. 1:18-cv-03125-SMJ

**ORDER DENYING
DEFENDANTS' SUMMARY
JUDGMENT MOTION**

Before the Court, without oral argument, is Defendants Wal-Mart Inc., Jake Carlstrom, and Aaron Rodriguez's Motion for Summary Judgment Dismissing Claims of Plaintiff Martin Villanueva, ECF No. 43. Having reviewed the pleadings and the file in this matter, the Court is fully informed and denies the motion.

Judicial estoppel does not preclude the present claims against Carlstrom and Rodriguez merely because Villanueva's earlier bankruptcy filing listed Walmart as a potential judgment debtor. Defendants cite no binding legal authority establishing that if a bankruptcy petitioner fails to exhaustively list all prospective defendants potentially liable to the petitioner, he or she is precluded from later suing those

1 alleged wrongdoers.

2 The remainder of Defendants' summary judgment motion is moot because
3 the Court previously granted Plaintiffs' unopposed motion to amend their complaint
4 and join the bankruptcy trustee to prosecute the present claims against Carlstrom
5 and Rodriguez. *See* ECF No. 77. However, the Court reminds Plaintiffs to comply
6 with Local Civil Rule 10(a)(3), which generally requires that a "John Doe" party be
7 named once he or she is identified through discovery.


8 In sum, Defendants have failed to show they are entitled to judgment as a
9 matter of law. *See* Fed. R. Civ. P. 56(a).

10 Accordingly, **IT IS HEREBY ORDERED:**

11 Defendants' Motion for Summary Judgment Dismissing Claims of
12 Plaintiff Martin Villanueva, **ECF No. 43**, is **DENIED**.

13 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
14 provide copies to all counsel.

15 **DATED** this 12th day of November 2019.

16 
17 SALVADOR MENDEZ, JR.
United States District Judge